



Development of Amendments and New Rules concerning Sanitary Surveys and Operator Certification #05-255(WPCB)

Overview

This rulemaking requires surface water systems to correct significant deficiencies found during sanitary surveys (as required under EPA's Interim Enhanced Surface Water Treatment Rule), clarifies requirements pertaining to monthly reports of operation of water treatment plants, updates operator certification requirements, and makes minor changes requested by EPA in some existing rules.

Citations Affected

Amends 327 IAC 8-2-8.2, 327 IAC 8-2.5-6, 327 IAC 8-2.5-7, 327 IAC 8-2.5-8, 327 IAC 8-2.5-9, 327 IAC 8-2.6-6, 327 IAC 8-11-1, 327 IAC 8-12-1, 327 IAC 8-12-2, 327 IAC 8-12-3, 327 IAC 8-12-3.2, 327 IAC 8-12-3.4, 327 IAC 8-12-3.6, 327 IAC 8-12-4, 327 IAC 8-12-6, 327 IAC 8-12-7, and 327 IAC 8-12-7.5. Adds 327 IAC 8-12-3.5 and 327 IAC 8-12-4.5.

Affected Persons

This rulemaking affects all community and nontransient noncommunity public water systems and transient noncommunity public water systems using surface water. Public water systems using surface water or ground water under the influence of surface water will be required to correct significant deficiencies found during sanitary surveys.

Public water systems will also be affected by the clarifications to 327 IAC 8-11-1 concerning monthly reports of operation. In addition, small public water systems will benefit from new requirements pertaining to facility specific operators and other changes to the operator certification rule.

Reason(s) for the Rule

The Interim Enhanced Surface Water Treatment Rule, promulgated by EPA on December 16, 1998, requires states to have the authority to require surface water systems to correct significant deficiencies found during sanitary surveys if the

deficiencies are within the control of the public water system and its governing body.

327 IAC 8-11-1 currently requires weekly reports of operation. This rule is being revised to require submission of monthly reports of operation and to clarify the reporting requirements.

327 IAC 8-12-3.6 specifies the number of site visits required by certified operators in responsible charge of public water systems. A reduced number of site visits by the certified operator in responsible charge is proposed for small public water systems with limited treatment facilities and small distribution systems.

Other changes being made to 327 IAC 8-12 make it easier for nontransient noncommunity public water systems and small community public water systems to retain certified operators and to clarify system classifications.

Economic Impact of the Rule

There is no anticipated fiscal impact to this rule. The only section with potential fiscal impact is 327 IAC 8-2-8.2(e) requiring correction of significant deficiencies found during sanitary surveys. This is a requirement from the federal regulations for the Interim Enhanced Surface Water Treatment Rule and the Long Term 1 Enhanced Surface Water Treatment Rule. Neither federal rule included correction of significant deficiencies as part of its analysis of the fiscal impact of the rules. If systems are maintaining their water systems and operating them properly, there should not be any significant deficiencies to correct.

Benefits of the Rule

This rulemaking will clarify operating report requirements for public water systems. It will also provide relief from some operator certification requirements for some of the smaller systems with limited treatment and small distribution systems.

Description of the Rulemaking Project

An external workgroup was not formed for this rulemaking, however, the sanitary survey and operational reporting requirements were addressed in part during the IDEM Operational Rules workgroup meetings held between August 2001 and June 2003. A meeting of interested parties was held on April 22, 2005, to discuss the proposed operator certification rule changes. In July 2005, a draft version of the Operator Certification portion of the rule was sent to the people who attended the April meeting for comment.

Under 40 CFR § 142.16(b)(1)(iii), the state is required to have the authority to require surface water systems to correct significant deficiencies found during sanitary surveys.

Section 327 IAC 8-2.5-6, 327 IAC 8-2.5-7, 327 IAC 8-2.5-8, 327 IAC 8-2.5-9, and 327 IAC 8-2.6-6 are being revised to make minor corrections requested by EPA after submission of those rules for primacy.

Scheduled Hearings

First Public Hearing: February 8, 2006, at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Second Public Hearing: May 10, 2006, at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality

conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.

6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

- (A) human, plant animal, or aquatic life; or
- (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rulemaking is consistent with **federal rules**.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule, also known as the draft rule as preliminarily adopted, is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Technical information regarding this rulemaking action can be obtained from Stacy Jones, Drinking Water Branch, Office of Water Quality, (317) 308-3292 or (800) 451-6027 (in Indiana). Additional information regarding this rulemaking action can be obtained from Rebecca Schmitt, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).